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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,424	02/07/2001	Joseph C.H. Park	03226.037001; P5009	6879

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OSHA LIANG L.L.P./SUN
1221 MCKINNEY, SUITE 2800
HOUSTON, TX 77010

EXAMINER

VU, TUAN A

ART UNIT PAPER NUMBER

2193

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/778,424	Applicant(s) PARK, JOSEPH C.H.	
	Examiner Tuan A. Vu	Art Unit 2193	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,3-6,10,12-15 and 17.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 20051209
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: As for the argument about predicate register by IA-64 and the recited general register, Applicant's rationale as to why the use of a general register would be otherwise more novel than IA-64's using of a predicate register does not yield any convincing teaching. For one skill in the art, registers are hardware resources of a given architecture; and the fact that they are called predicate register does not take away the fundamental understanding that they are the same architecture registers being used for storing boolean data of a predicate register; thus they remain general register in their core and nominally 'predicate' as per their usage/functionality. The claim does not establish a single teaching as to why a 'general' register would be otherwise distinct from a given architecture register(say by IA-64) being functionally called 'predicate register'. The intended use of some limited/fixed resources is reason behind nomenclature making some register being named differently; and there is no insightful teaching as to the fundamental difference between being a 'generic' and a 'predicate' piece of hardware from the fashion the claim is recited; and from the manner explained in the Applicant's argument. If the invention is contemplating dedicating only certain piece of hardware along with eliminating some predicate expressions, then it is noted that no teaching is shed from the claim in terms of how this is done as for the obligation that a target register absolutely cannot be a non-generic register. There is a lack in continuity in the claim limitations, i.e. between why a generic register can be linked to elimination of predicate (when predicate is weakly mentioned, thus unrelated to any of the If-conversion process) to optimize some representation (when the result of writing to such register has not been reused in such elimination process nor is it remotely connected to the cover analysis or replacement pattern later recited). More importantly, there is no definiteness in terms of how this generic register (corresponding to a conditional instruction) would be otherwise a big inventive leap over IA-64 predicate register as explained above. The claim as a whole lacks interrelating arrangement of steps so that an inventive pattern is perceived. In short, piecemeal patching of unrelated limitations is what can be extracted from the claim which is bordering on a USC 112, 2nd paragraph deficiency or non-consistency between steps taken and result, rendering the result statutorily unstable or non-concrete. The claim can be summarized as testing a code and storing it as predicate boolean into a generic register corresponding thereto; and transforming machine representation by eliminating some predicate (there is no explicit correspondence b/w the predicate and the if-conversion expression); and optimizing based on some cover and replacement pattern (these are mentioned for the first time: out of nowhere). The arguments against the rejection of claims 1, 7 fail to convince because of the many deficiencies, among which lack of definiteness of the subject matter conveyed; and for these reasons alone, all the claims are not in condition for allowance. If the use of register appears to be the most inventive step, effort should be effected in claiming how that concept has been implemented to read away from IA-64 use of hardware register to store predicate results because as set forth above, the end result and the manner to get to it are what is at stakes, not nomenclature. The claims stand rejected for not being in form and statutory condition eligible for a patent.


KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100